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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2011-517

**BARBARA ROSE SMITH,
a.k.a. BARBARA R. TRAVIS SMITH,
a.k.a. BARBARA SMITH
10151 Lake Avenue
Truckee, CA 96161
Registered Nurse License No. 674125**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about December 10, 2010, Complainant Louise R. Bailey, M.Ed., RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2011-517 against Barbara Rose Smith (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)
2. On or about February 21, 2006, the Board of Registered Nursing (Board) issued Registered Nurse License No. 674125 to Respondent. The Registered Nurse License expired on April 30, 2007, and has not been renewed.
3. On or about December 10, 2010, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2011-517, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 136 and/or agency specific statute or regulation, is required to be reported and maintained with the Board, which was and is 10151 Lake Avenue, Truckee, CA 96161

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code
3 section 124.

4 5. On or about December 25, 2010, the Certified Mail documents were returned by the
5 U.S. Postal Service marked "No mail receptacle."

6 6. Government Code section 11506 states, in pertinent part:

7 (c) The respondent shall be entitled to a hearing on the merits if the respondent
8 files a notice of defense, and the notice shall be deemed a specific denial of all parts
9 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

10 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
11 the Accusation, and therefore waived her right to a hearing on the merits of Accusation
12 No. 2011-517.

13 8. California Government Code section 11520 states, in pertinent part:

14 (a) If the respondent either fails to file a notice of defense or to appear at the
15 hearing, the agency may take action based upon the respondent's express admissions
16 or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

17 9. Pursuant to its authority under Government Code section 11520, the Board finds
18 Respondent is in default. The Board will take action without further hearing and, based on the
19 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
20 taking official notice of all the investigatory reports, exhibits and statements contained therein on
21 file at the Board's offices regarding the allegations contained in Accusation No. 2011-517, finds
22 that the charges and allegations in Accusation No. 2011-517, are true and correct by clear and
23 convincing evidence.

24 10. Taking official notice of its own internal records, pursuant to Business and
25 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
26 and Enforcement is \$362.50 as of January 10, 2011.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Barbara Rose Smith has subjected her Registered Nurse License No. 674125 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case: Respondent violated Business and Professions Code section 2761, subdivision (a)(4) as follows:

a. On or about September 8, 2009, pursuant to the Agreed Order ratified and adopted by the Texas Board in the disciplinary proceeding titled "*In the Matter of Registered Nurse License Number 738288 issued to Barbara Smith*", the Texas Board ordered that Respondent receive the sanction of a Warning with Stipulations. Respondent agreed to the following findings of fact: On or about January 28, 2007, while employed as a contract nurse with RN Demand, Irving, Texas, and assigned to the Labor and Delivery Unit at East Texas Medical Center-Jacksonville, Jacksonville, Texas, Respondent incorrectly set an infusion pump rate at 950 cc/hr for Patient MR# 13609656. As a result, an overdose of Pitocin was administered.

b. On or about May 21, 2010, pursuant to the Consent Order in the disciplinary proceeding titled "*In the Matter of: Barbara R. Travis Smith*", etc., ABN Case No. 2010-0518, the Alabama Board granted Respondent's application for reinstatement of her license to practice registered nursing in the State of Alabama, which had lapsed, and placed the license on probation for a period of twelve (12) months on terms and conditions. Respondent was also ordered to pay a fine in the amount of \$300. The Alabama Board's disciplinary action against Respondent was based on the disciplinary action by the Texas Board.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 674125, heretofore issued to Respondent Barbara Rose Smith, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on _____.

It is so ORDERED _____



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

default decision_LIC.rtf
DOJ Matter ID:SA2010102416

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 JANICE K. LACHMAN
Supervising Deputy Attorney General
4 State Bar No. 186131
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-7384
Facsimile: (916) 327-8643
7 Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2011-517

12 **BARBARA ROSE SMITH,**
a.k.a. **BARBARA R. TRAVIS SMITH,**
13 a.k.a. **BARBARA SMITH**
10151 Lake Avenue
14 Truckee, CA 96161
Registered Nurse License No. 674125

ACCUSATION

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs:

22 2. On or about February 21, 2006, the Board issued Registered Nurse License Number
23 674125 to Barbara Rose Smith, also known as Barbara R. Travis Smith and Barbara Smith
24 ("Respondent"). Respondent's registered nurse license expired on April 30, 2007.

25 **STATUTORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
27 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

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1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed
9 nurse or deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct, which includes, but is not limited to, the
11 following:

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13 (4) Denial of licensure, revocation, suspension, restriction, or any other
14 disciplinary action against a health care professional license or certificate by another
15 state or territory of the United States, by any other government agency, or by another
16 California health care professional licensing board. A certified copy of the decision
17 or judgment shall be conclusive evidence of that action ...

18 COST RECOVERY

19 6. Code section 125.3 provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licensee found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case.

23 CAUSE FOR DISCIPLINE

24 (Disciplinary Actions by the Texas and Alabama Boards of Nursing)

25 7. Respondent is subject to disciplinary action pursuant to Code section 2761,
26 subdivision (a)(4), on the grounds of unprofessional conduct, in that she was disciplined by the
27 Texas Board of Nursing ("Texas Board") and the Alabama Board of Nursing ("Alabama Board"),
28 as follows:

a. On or about September 8, 2009, pursuant to the Agreed Order ratified and adopted by
the Texas Board in the disciplinary proceeding titled "In the Matter of Registered Nurse License
Number 738288 issued to Barbara Smith", the Texas Board ordered that Respondent shall receive

1 the sanction of a Warning with Stipulations. Respondent agreed to the following findings of fact:
2 On or about January 28, 2007, while employed as a contract nurse with RN Demand, Irving,
3 Texas, and assigned to the Labor and Delivery Unit at East Texas Medical Center-Jacksonville,
4 Jacksonville, Texas, Respondent incorrectly set an infusion pump rate at 950 cc/hr for Patient
5 MR# 13609656. As a result, an overdose of Pitocin was administered, which caused a
6 hyperstimulated contraction lasting approximately two (2) minutes and a corresponding fetal
7 heart rate deceleration that did resolve after the contraction ceased. A true and correct copy of the
8 Agreed Order is attached hereto as Exhibit A and incorporated herein.

9 b. On or about May 21, 2010, pursuant to the Consent Order in the disciplinary
10 proceeding titled "In the Matter of: Barbara R. Travis Smith", etc., ABN Case No. 2010-0518, the
11 Alabama Board granted Respondent's application for reinstatement of her license to practice
12 registered nursing in the State of Alabama, which had lapsed, and placed the license on probation
13 for a period of twelve (12) months on terms and conditions. Respondent was also ordered to pay
14 a fine in the amount of \$300. The Alabama Board's disciplinary action against Respondent was
15 based on the disciplinary action by the Texas Board, set forth in subparagraph (a) above. A true
16 and correct copy of the Consent Order is attached hereto as Exhibit B and incorporated herein.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Board of Registered Nursing issue a decision:

20 1. Revoking or suspending Registered Nurse License Number 674125, issued to Barbara
21 Rose Smith, also known as Barbara R. Travis Smith and Barbara Smith;

22 2. Ordering Barbara Rose Smith, also known as Barbara R. Travis Smith and Barbara
23 Smith, to pay the Board of Registered Nursing the reasonable costs of the investigation and
24 enforcement of this case, pursuant to Business and Professions Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED:

12/10/10

Louise R. Bailey

LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A

AGREED ORDER (ISSUED BY THE TEXAS BOARD OF NURSING)

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of REGISTERED Nurse
License Number 738288
issued to BARBARA SMITH

§ AGREED
§
§ ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of BARBARA SMITH, Registered Nurse License Number 738288, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on March 16, 2009, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received an Associate Degree in Nursing from Jefferson Davis Community College, Brewton, Alabama, on August 14, 2001. Respondent was licensed to practice professional nursing in the State of Texas on February 12, 2007.

5. Respondent's professional nursing employment history includes:

7/1991 - 5/2004	Staff Nurse Labor and Delivery	North Baldwin Infirmary Bay Minette, Alabama
5/2004 - 2/2005	Staff Nurse Labor and Delivery	Los Alamos Medical Center Los Alamos, New Mexico
2/2005 - 8/2005	Staff Nurse Labor and Delivery	Franklin Regional Hospital Franklin, New Hampshire
10/2005 - 12/2005	Staff Nurse Labor and Delivery	Payson Regional Medical Center Payson, Arizona
12/2005-unknown	Staff Nurse Agency Nurse	RN Demand Irving, Texas
2/2007 - Present	Unknown	

6. At the time of the initial incident, Respondent was employed as an Agency Staff Nurse with RN Demand and assigned to East Texas Medical Center-Jacksonville, Jacksonville, Texas, and had been in this position for twenty-eight (28) days.
7. On or about January 28, 2007, while employed as a contract nurse with RN Demand, Irving, Texas, and assigned to the Labor and Delivery Unit at East Texas Medical Center-Jacksonville, Jacksonville, Texas, Respondent incorrectly set an infusion pump rate at 950 cc/hr for Patient MR# 13609656, resulting in the administration of an overdose of Pitocin, which caused a hyperstimulated contraction lasting approximately two (2) minutes, and a corresponding fetal heart rate deceleration that did resolve after the contraction ceased. Respondent's conduct may have contributed to the patient suffering unnecessary pain and fetal distress, including but not limited to, decreased oxygen delivery to the fetus.
8. In response to the incident in Finding of Fact Number Seven (7), Respondent states, the incident occurred within the first few days of her working there and she was not given any orientation to the facility's procedures or equipment. Respondent admits she did program the pump with a rate of 950ml/hr. but she also set the pump volume at 12ml which, due to the fluid concentration, was only 2 mili units of Pitocin. Respondent states that the mistake was immediately identified and rectified. Furthermore, Respondent indicates she did not try to hide her error and wrote the incident report herself. Although the patient did have one hyper-stimulated contraction, which lasted approximately 2 minutes and the Fetal Heart Rate had a prolonged deceleration, both conditions completely recovered. Respondent asserts that the Fetal Heart Rate continued to have variable and early decelerations throughout the labor, however, at delivery, a mucal cord was discovered to be the reason for the continued

deceleration and not the result of her error.

9. Charges were filed on January 8, 2009.
10. Charges were mailed to Respondent on January 12, 2009.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violations of Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(A),(1)(B)&(1)(C) and 217.12(1)(B)&(4).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 738288, heretofore issued to BARBARA SMITH, including revocation of Respondent's license to practice professional nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privilege, if any, to practice nursing in compact states.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the Texas Board of Nursing and the

Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to BARBARA SMITH to the office of the Texas Board of Nursing within ten (10) days of the date of ratification of this Order.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address:*

<http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>

(3) RESPONDENT SHALL, within one (1) year of entry of this Order successfully

complete a course in medication administration. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include Nurses. The didactic portion of this course shall be a minimum of six (6) hours in length. The course shall contain a minimum twenty-four (24) hour clinical component which is to be provided by the same Registered Nurse who provides the didactic portion of this course. The clinical component SHALL focus on tasks of medication administration only. In order for the course to be approved, the course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the five (5) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form, provided by the Board, to the office of the Board to verify RESPONDENT's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address:*
<http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>

(4) RESPONDENT SHALL, within one (1) year of entry of this Order successfully complete the course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program

provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop*

may be found at the following web address:

<http://www.learningext.com/products/generalce/critical/ctabout.asp>

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR ONE YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(5) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on

RESPONDENT's license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(6) RESPONDENT SHALL CAUSE each present employer in nursing to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

(7) RESPONDENT SHALL be supervised by a Registered Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(8) RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT's capability to practice nursing. These reports shall be completed by the Registered Nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3)-month period for one (1) year of employment as a nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order,
all encumbrances will be removed from RESPONDENT's license and RESPONDENT shall be
eligible for multistate licensure privileges, if any, to practice nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order.

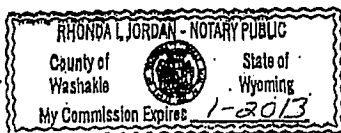
I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 17 day of July, 2009.

Barbara Smith
BARBARA SMITH, Respondent

Sworn to and subscribed before me this 17 day of July, 2009.


SEAL



Rhonda L. Jordan
Notary Public in and for the State of Wyoming

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 17th day of July, 2009; by BARBARA SMITH, Registered Nurse License Number 738288, and said Order is final.

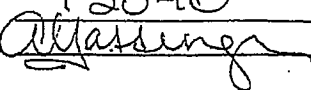
Effective this 8th day of September, 2009.


Katherine A. Thomas, MN, RN
Executive Director on behalf
of said Board

I certify this to be a true copy of the records on file with the Texas Board of Nursing.

Date:

Signed

7-20-10




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EXHIBIT B

CONSENT ORDER (ISSUED BY THE ALABAMA BOARD OF NURSING)

BEFORE THE ALABAMA BOARD OF NURSING

IN THE MATTER OF:

BARBARA R. TRAVIS SMITH

LICENSE NO. 1-096315 (LAPSED)
2-015918 (LAPSED)

Respondent.

ABN CASE NO. 2010-0518

CONSENT ORDER

The Alabama Board of Nursing, hereinafter referred to as Board, having evidence that **BARBARA R. TRAVIS SMITH**, hereinafter referred to as Respondent, is in violation of the Code of Alabama 1975, § 34-21-25, and of the Alabama Board of Nursing Administrative Code, § 610-X-8; and Respondent, desiring to avoid the necessity of a formal hearing, do hereby enter into this Consent Order in lieu of proceeding with further disciplinary action. Respondent understands the right to a formal hearing in this matter and hereby knowingly waives such right. Respondent further understands and agrees that this is a non-appealable Order.

FINDINGS OF FACT

I.

On November 24, 1975, Respondent was licensed by the Alabama Board of Nursing as a Licensed Practical Nurse (LPN). Respondent's LPN license expired on December 31, 2001, for non-renewal.

On November December 18, 2001, Respondent was licensed by the Alabama Board of Nursing as a Registered Nurse (RN). Respondent's RN license expired on December 31, 2008, for non-renewal.

II.

On November 16, 2009, Respondent submitted to the Alabama Board of Nursing an application for reinstatement of a lapsed license for her RN license. On the application Respondent answered "yes" to the question: "Since your last renewal has your license, registration or advanced practice, certification in any state, territory, or country been denied, revoked, suspended, reprimanded, fined, surrendered, restricted, limited, or placed on probation? Is there any action currently pending?"

III.

On September 8, 2009, the Texas Board of Nursing issued an Agreed Order sanctioning Respondent's RN license with a Warning With Stipulations. Said action was a result of an error in prescribing, dispensing and administering medication. Specifically, while employed as a contract nurse with RN Demand, Irving, Texas, and assigned to the Labor and Delivery Unit at East Texas Medical Center-Jacksonville, Jacksonville, Texas, Respondent incorrectly set an infusion pump rate at 950 cc/hr for a patient, resulting in the administration of an overdose of Pitocin, which caused a hyper-stimulated contraction lasting approximately two (2) minutes, and a corresponding fetal heart rate deceleration that resolved after the contraction ceased. The duration of the Texas Order was for an indefinite period of time; it required Respondent to complete certain educational courses within one year and to engage in the monitored practice of nursing as a RN in Texas for one year in order to complete the terms of the Texas Order. Respondent has not completed the terms of the Texas Agreed Order.

CONCLUSIONS OF LAW

1. Respondent's conduct as described in Paragraphs II and III of the Findings of Fact demonstrates that Respondent had a license denied, conditionally issued, reprimanded, placed on probation, suspended, revoked, or voluntarily surrendered in another state, territory, or country for an action or conduct which would constitute disciplinary action in this state in

violation of the Code of Alabama 1975, § 34-21-25, and the Alabama Board of Nursing Administrative Code, § 610-X-8-03(6)(z). Said conduct is unprofessional conduct of a character likely to deceive, defraud, or injure the public in matters pertaining to health.

2. The conduct stated above constitutes sufficient grounds for the imposition of sanctions against Respondent's license to practice as a Registered Nurse in the State of Alabama pursuant to the Code of Alabama 1975, § 34-21-25, and the Alabama Board of Nursing Administrative Code, § 610-X-8-03.

ORDER

Respondent's Registered Nurse License, No. 1-096315, Application for Reinstatement of a Lapsed License is hereby **GRANTED**, and said license is placed on **PROBATION** for a period of twelve (12) months pursuant to the following terms and conditions. To the extent the Respondent has a LPN license; said license shall be subject to the same terms and conditions.

1. Return of Wallet ID Card

Respondent's wallet ID card shall indicate probationary status.

2. Fine

Respondent shall pay a fine in the amount of \$300. This fine must be paid within thirty (30) days of the effective date of this Order. Respondent understands that failure to pay the fine is cause for additional disciplinary action by the Board.

3. Self-Report

Respondent shall submit a written status report to the Board on a Board-approved form. This is to be submitted on a monthly basis, according to schedule, and must contain a self-assessment of current status. This report is required regardless of whether Respondent is employed in nursing.

4. Education – Completion of Courses

Respondent shall satisfactorily complete Board-approved courses/programs on critical

thinking and legal/ethical aspects of nursing and provide documentation of completion to the Board. Said courses must be satisfactorily completed within three (3) months from the effective date of this Order.

5. Restricted Employment

Respondent shall not work for a nursing registry, traveling nurse agency, nursing float pool, hospice, home health agency, or temporary employment agency.

6. Employment - Supervision Restriction

Respondent shall not be employed as a supervising nurse.

7. Employment - Monitoring

Respondent shall practice only under the on-site monitoring of a Board-approved licensed health professional in good standing with their professional regulatory body. The employment monitor is not required to be on the same unit or ward as Respondent but should be on site and readily available to provide assistance and intervention in the event the Respondent appears impaired or otherwise unable to safely practice. The Respondent shall work only regularly assigned, identified, and predetermined units. The on-site monitor shall be primarily one (1) person. The Respondent shall not be self-employed or contract for services.

8. Employment - Notification

Respondent shall provide all health care employers, collaborative and covering physicians (if CRNP/CNM) and schools of nursing with a copy of this Order and cause each to acknowledge to the Board that a copy of this Order has been provided to them. Said notification shall be received by the Board no later than ten (10) days after the effective date of this Order or within ten (10) days of Respondent's employment or advanced practice approval or entry into school and must be on the Board-provided form.

9. **Employment - Evaluation of Performance**

Respondent shall cause the employer to provide to the Board, on a Board-approved form, a written evaluation of Respondent's nursing performance. Such reports are due quarterly, according to schedule. The receipt of an unfavorable report may be considered to be a violation of this Order. If Respondent is not employed as a nurse, Respondent is required to inform the Board of employment status in the monthly self-report.

10. **Employment - Change in Status**

Respondent shall not accept or change employment without prior written notification to the Board. Said notification must include the name and number of the person who will be Respondent's supervisor.

11. **Not Employed in Nursing**

Periods of time in which Respondent is not employed as a practicing nurse shall be excluded from computation of time to be served on probation, unless determined otherwise by the Board of Nursing or its designee. Employment in fields other than nursing does not relieve Respondent from compliance with all other terms and conditions of this Order.

12. **Alabama Licensure Status**

Respondent must maintain a current license at all times during the period of this Order. If for any reason Respondent allows the nursing license to lapse/expire, such may be cause for disciplinary action.

13. **Notification of Board**

If Respondent is arrested by any law enforcement agency or is admitted as a patient to any institution in this state or elsewhere for treatment regarding the abuse of or dependence on any chemical substance, or for treatment for any emotional or psychological disorder, Respondent shall cause the Board to be notified immediately. Respondent also shall immediately report to the Board any relapse as well as any disciplinary action issued by an employer. Should Respondent

test positive on any drug screen conducted by an employer, an employee assistance program, court referral program or other entity, the Respondent shall immediately report such to the Board.

14. Change of Address

Respondent shall immediately notify the Board, in writing, of any change of address.

15. Relocation

The Respondent must notify the Board of pending relocation outside the State of Alabama. If Respondent plans to relocate to another state, Respondent must inform that state's board of nursing as to licensure status and may request the Alabama Board to transfer monitoring to the other state. If monitored by another state, Respondent must successfully complete all requirements of the Board Order of the other jurisdiction in order to fulfill the terms of this Order. Respondent must submit to the Alabama Board a copy of the Order from the other state and official notification of successful completion or unsuccessful termination thereof. The Board retains the right to withdraw approval for out-of-state monitoring if circumstances indicate that such is appropriate.

16. Personal Interview

Respondent shall appear in person for interviews at the request of the Board or Board designee.

17. Obey the Laws

Respondent shall refrain from violation of any federal, state or local law or rule or Order of the Board. A conviction on any criminal charge pending at the time of the signing of this Order may result in further disciplinary action. Any arrest subsequent to the signing of this Order may result in further disciplinary action.

18. Release of Records and Information

Respondent hereby authorizes the Board of Nursing to submit information and all records necessary to ensure compliance with the stipulations of this Order and public safety. This

includes communication with Respondent's employer (existing and prospective) regarding non-compliance or other concerns. Respondent also agrees to execute all appropriate release-of-information forms so as to allow all healthcare providers, employers and all other necessary persons to inform the Board, in writing, of Respondent's status and progress.

19. **Violation**

Any deviation from the requirements of this Order without the written consent of the Board shall constitute a violation of this Order and will be cause for disciplinary action.

20. **Subsequent Practice Act Violation**

Should supplemental cause for disciplinary action arise during the period of this Order, such is cause for disciplinary action.

21. **Fraudulent Acts During Period of Order**

Submission of fraudulent documents or reports or misrepresentation of facts relating to the terms and conditions stated herein shall constitute a violation of this Order.

22. **Termination of Order**

This Order shall terminate only upon receipt of documents to satisfy all terms and conditions of this Order, including receipt of official court records documenting successful completion of court-ordered probation, pretrial diversionary-type program, drug court, etc., where applicable. This period of probation will not terminate until notification by the Board to Respondent in writing that all terms and conditions have been met and the probation has been completed.

23. **Public Information**

This Order is public information. All disciplinary actions of the Board will be reported to all required data banks.

24. Effective Date

The effective date of this Order shall be the documented date of service or attempted service by certified mail or personal service.

25. Final Order

This Order is subject to full Board consideration and acceptance before it shall be final.

EXECUTED on this the 8 day of March
2010.

Barbara R Travis Smith
BARBARA R. TRAVIS SMITH

APPROVED AND ACCEPTED by the ALABAMA BOARD OF NURSING on this the 21st
day of May 2010.

N Genell Lee
N. GENELL LEE, RN, MSN, JD
EXECUTIVE OFFICER
ALABAMA BOARD OF NURSING